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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,680	10/03/2003	Ian A. Cody	JJK-0332 (P2002J101)	9978
27810	7590	11/18/2005	EXAMINER	
EXXONMOBIL RESEARCH AND ENGINEERING COMPANY P.O. BOX 900 1545 ROUTE 22 EAST ANNANDALE, NJ 08801-0900			GRIFFIN, WALTER DEAN	
			ART UNIT	PAPER NUMBER
			1764	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,680

Applicant(s)

CODY ET AL.

Examiner

Walter D. Griffin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 55 and 56 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-54 is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-25 and 27-29 is/are rejected.
- 7) ☒ Claim(s) 13 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

The rejections under 35 USC 103 as described in the office action mailed on June 23, 2005 have been withdrawn in view of the amendment filed on September 23, 2005. The applied prior art does not disclose or suggest the treatment of a dewaxing catalyst containing an alumina or alumina-containing binder with a stream containing from about 100 to 10000 wppm of at least one oxygenate. The WO 01/07538 A1 reference does not disclose an alumina binder in its dewaxing catalyst and the other references do not disclose or suggest oxygenate amounts within the claimed range.

Election/Restrictions

Applicant's election with traverse of Group I, claims 1-54 in the reply filed on September 23, 2005 is acknowledged. The traversal is on the ground(s) that the search for the Group II invention would not be unduly burdensome. This is not found persuasive because the search required for Group I is not required for Group II and because applicant has not shown that the materially different process proposed by the examiner for producing the product would not be effective. Therefore, there would be a burden on the examiner if both groups of claims were examined together.

The requirement is still deemed proper and is therefore made FINAL.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12, 14-25, and 27-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 38-47 of copending Application No. 10/678690. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is drawn to a process in which a hydrocarbon feed is hydrotreated, subjected to a separation step, and dewaxed with a catalyst that has been contacted with an oxygenate. The claims in 10/678690 do not recite stripping as the technique used in the separation step. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the claims of 10/678690 by utilizing a stripping technique in the separation step because stripping is a conventional technique used to remove contaminants from hydrocarbons.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Claims 1-12, 14-25, and 27-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 38-47 of copending Application No. 10/678684. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is drawn to a process in which a hydrocarbon feed is hydrotreated, subjected to a separation step, and dewaxed with a catalyst that has been contacted with an oxygenate. The claims in 10/678684 do not recite stripping as the technique used in the separation step. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the claims of 10/678684 by utilizing a stripping technique in the separation step because stripping is a conventional technique used to remove contaminants from hydrocarbons.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

Claims 13 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 30-54 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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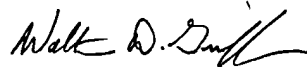
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter D. Griffin whose telephone number is (571) 272-1447. The examiner can normally be reached on M-F 6:30 to 4:00 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Walter D. Griffin
Primary Examiner
Art Unit 1764

WG

November 15, 2005